

**NOT FOR PUBLICATION**

**SEP 27 2007**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

ALFREDO TEPEXPA GENIS,

Petitioner,

v.

PETER D. KEISLER,\* Attorney General,

Respondent.

No. 06-71736

Agency No. A74-391-676

MEMORANDUM\*\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted September 24, 2007 \*\*\*

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

Alfredo Tepexpa Genis, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order upholding an Immigration

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\* Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

\*\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Judge's ("IJ") order denying Genis' application for cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review the agency's continuous physical presence determination for substantial evidence. *See Ibarra-Flores v. Gonzales*, 439 F.3d 614, 618 (9th Cir. 2006). We deny the petition for review.

Substantial evidence supports the agency's determination that Genis did not meet the continuous physical presence requirement where Genis departed from the United States in 1996 and signed documents upon attempted re-entry (provided in English and Spanish) giving up his right to a hearing before an IJ and his right to apply for relief before an IJ, and agreeing to return to Mexico. *See Vasquez-Lopez v. Ashcroft*, 343 F.3d 961, 974 (9th Cir. 2003) (finding that "an alien who commits to departure in order to avoid deportation proceedings is not entitled to continue accruing presence").

**PETITION FOR REVIEW DENIED.**